



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 2095-02  
12 September 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 September 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 19 September 1969 at the age of 18. On 1 September 1970 you were convicted by special court-martial (SPCM) of a 96 day period of unauthorized absence (UA). You were sentenced to a \$176 forfeiture of pay, confinement at hard labor for 30 days, and a reduction to paygrade E-1.

On 28 July 1970 you began a nine day period of UA that was not terminated until 5 August 1970. However, the record does not indicate the disciplinary action taken, if any, for this misconduct.

On 26 October 1970 you began yet another period of UA that was not terminated until 8 June 1971 when you were apprehended by civil authorities. On 31 June 1971 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the foregoing period of UA totalling 225 days and failure to obey a lawful order. Prior to submitting this request for discharge, you confer with a qualified military lawyer, be advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Your request

for discharge was granted and on 22 July 1971 you received an undesirable discharge in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you made bad choices during your military career due to alcohol abuse. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your frequent and lengthy periods of UA which resulted in your request for discharge. The Board believes that considerable clemency was extended to you when your request for discharge was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director